

IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
PENNSYLVANIA

TINA GLENN,

Plaintiff,

Case No. 2:21-cv-613

v.

BUTLER HEALTH CARE PROVIDERS,
d/b/a BUTLER MEMORIAL HOSPITAL

Defendant,

JURY TRIAL DEMANDED

COMPLAINT

AND NOW comes Plaintiff, TINA GLENN, by and through her attorney, John Newborg, Esquire and files this Complaint against BUTLER HEALTH CARE PROVIDERS, d/b/a BUTLER MEMORIAL HOSPITAL (hereinafter “Butler Hospital”) averring as follows:

JURISDICTION AND VENUE

1. This action is brought and jurisdiction lies pursuant to the AMERICANS WITH DISABILITIES ACT, as amended [“ADA”] 42 U.S.C.A. § 12133.

2. Plaintiff has complied with all conditions precedent to jurisdiction by filing a Charge of Discrimination with the Equal Employment Opportunity Commission, by obtaining a Right to Sue letter and filing suit within 90 days of receipt of the Right to Sue letter.

PARTIES

3. Plaintiff, Tina Glenn, is an adult individual residing at 165 Thompsontown Road, West Sunbury, PA 16061.

4. Defendant, Butler Hospital is located at One Hospital Way, Butler PA 16001.

5. At all times material hereto, Butler Hospital, was acting by and through its authorized agents and/or employees acting within the course and scope of their employment.

STATEMENT OF FACTS

6. Plaintiff is a Registered Nurse.

7. Butler Hospital employed the Plaintiff as a Registered Nurse since October 19, 2010.

8. During Plaintiff's tenure working for Butler Hospital, Plaintiff had consistently received good performance reviews.

9. On May 28, 2018 after reporting to work, Plaintiff began to feel nauseous, sweaty, light-headed and disoriented.

10. After developing the above symptoms, the Plaintiff stepped out of the hospital to get some air, and to sit in her car to see if that would help her feel better.

11. After discussing her symptoms with her supervisor over the phone while still seated in her car, the Plaintiff decided that she should go home.

12. Plaintiff then returned to the building in order to provide her "hand-off" report to her replacement before going home.

13. When the Plaintiff returned to the building, Plaintiff's supervisor ordered the Plaintiff to submit to a drug test.

14. Plaintiff submitted to the drug test.

15. On June 6, 2018, the results of the drug test came back and revealed the presence of Suboxone in the Plaintiff's body.

16. Plaintiff's doctor, George Lloyd, M.D., on July 10, 2006 had first prescribed Suboxone for the Plaintiff's migraine headaches, and also as a way so the Plaintiff could avoid

using opioids. See November 5, 2018 George Lloyd, M.D. letter attached hereto and Marked Exhibit “A”.

17. At no time was Plaintiff’s work performance affected by the Suboxone use.

18. At all times relevant hereto the Plaintiff was qualified to work as a Registered Nurse.

19. Butler Hospital’s Medical Review Officer, Dennis Demby, M.D., confirmed that the Suboxone was prescribed to the Plaintiff by her physician and that the Plaintiff was using the drug as prescribed, and so advised the Plaintiff’s supervisors of these facts.

20. Butler Hospital’s Medical Review Officer, Dennis Demby, M.D., advised Plaintiff’s supervisors that Suboxone does not impair mental or physical function.

21. Butler Hospital’s Medical Review Officer, Dennis Demby, M.D., certified to Plaintiff’s supervisors that the Plaintiff had no impairment due to the use of any drug or controlled substance.

22. Suboxone is a drug that is prescribed as a treatment for opiate addicts.

23. After Butler Hospital learned of the Plaintiff’s Suboxone use, Butler Hospital fired the Plaintiff effective July 12, 2018 .

24. The only reason Butler Hospital fired the Plaintiff was because Butler Hospital regarded the Plaintiff as being impaired due to drug addiction, despite the findings of Dr. Bemby as stated in paragraphs 20, 21 and 22.

25. Butler Hospital claimed it fired the Plaintiff because Plaintiff did not tell anyone at Butler Hospital she was taking Suboxone.

26. Since the Suboxone did not cause the Plaintiff any mental or physical impairment, the Plaintiff was under no obligation to inform anyone of her Suboxone use.

27. Further, as proven by this very case, Plaintiff knew that if she informed her supervisors of the Suboxone use, Butler Hospital would fire her.

28. Butler Hospital's stated reason for firing the Plaintiff is transparently pretextual.

AMERICANS WITH DISABILITIES ACT

29. Paragraphs 1 through 28 above are hereby incorporated by reference.

30. Under the ADA no employer is permitted to discriminate against an employee because the employer regards the employee to be disabled. 42 U.S.C.S. §12102(1)(C), 42 U.S.C.S. §12102(2)

31. Under the ADA no employer is permitted to discriminate against an employee because the employer regards the employee to be impaired as a result of drug addiction.

32. Butler Hospital terminating the Plaintiff based upon Butler Hospital regarding the Plaintiff as being impaired due to drug addiction, is a violation of the Americans with Disabilities Act.

33. Plaintiff suffered economic and non-economic damages as a result of Butler Hospital's violation of the ADA as stated above.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for the following relief:

- (a) Judgment in his favor and against the Defendant for back pay and loss of employment benefits from July 12, 2018 to the present, plus interest.
- (b) An award of front pay and benefits.
- (c) An award of compensatory damages

- (d) An award of reasonable attorney's fees, including litigation expenses and costs.
- (e) An award of punitive damages
- (f) Such other relief as the Court deems just and proper.

Respectfully Submitted,

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